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JOHN THOMAS AND KAREN	:	UNITED STATES DISTRICT COURT
THOMAS, H/W,	:	OF NEW JERSEY
	:	CAMDEN DIVISION
	:	
Plaintiff(s),	:	HON. Jerome B. Simandle
	:	Civil Action No.: 1:07-cv-03597
	:	
v.	:	<u>AGREED PROTECTIVE ORDER</u>
	:	
CMI TEREX CORPORATION	:	
	:	
Defendant(s)	:	
	:	

WHEREAS, plans, blueprints, diagrams, schematic drawings, design drawings and other materials and information, have been sought by the Plaintiffs, and have been and will be produced by the Defendant CMI Terex Corporation, ("CMI Terex"), in the above-captioned matter, which above referenced schematic drawings, blueprints or other materials are contended to be, comprise or reflect trade secrets, confidential, or otherwise privileged proprietary or commercial information;

IT IS HEREBY ORDERED that:

1. This Order shall control the confidentiality of information contained in plans, blueprints, diagrams, schematic drawings, design drawings, or other materials produced by CMI Terex, both prior and subsequent to the entry of this Order in this action.

2. The information given or produced in this action and designated as confidential by CMI Terex shall be treated by the parties and their counsel, and any agents or witnesses of parties, such as experts, as being confidential.

3. Unless agreed to in writing by counsel for CMI Terex, the parties to whom such confidential information is disclosed may themselves disclose such information only to the following persons and under the following conditions:

- A. To counsel of record, their associated attorneys, their regularly employed support staff, including paralegal and clerical personnel, engaged in the conduct of this action;
- B. To the court, and court personnel, including stenographic reporters regularly employed by the Court;
- C. To stenographic reporters not regularly employed by the Court, who are engaged in such proceedings as are necessarily incident to the conduct of this action; and
- D. To witnesses or prospective witnesses or other persons requested by counsel to furnish technical or other expert services, to give testimony, or to otherwise prepare for any deposition, hearing, trial or other proceeding in this action, who signed before disclosure to them a written assurance set forth in Exhibit "A" attached hereto.

4. Copies of any discovery material needed to enable any expert to perform in such capacity in this case may be provided to expert witnesses retained by counsel in this case, but any expert provided with copies of discovery documents shall be advised by the counsel providing such material that it may not be further copied or reproduced or disseminated by such experts to any other person or organization. No counsel in this case, nor any employee or representative of any such counsel, shall otherwise reproduce or copy or disseminate or disclose in any manner to any other person or organization, any of the information contained in any of the documents and records and discovery materials produced in this case.

5. The use and disclosure of confidential information by the parties expert witnesses, or non-testify experts to whom such information is disclosed shall be confined to what is reasonably necessary to effect the prosecution of this action only, during the pendency of this action, and all other use and disclosure by them during the pendency of this action or after its termination is hereby prohibited.

6. Plans, blueprints, diagrams, schematic drawings, design drawings, or other material or information for which confidential status is claimed by CMI Terex shall be maintained in confidential status, subject to the provisions of this Order. Any confidential material, or any pleading, motion or other paper containing or in any way referring to any confidential information, filed with the Court shall be filed under seal, maintained as a confidential file by the Court and shall not be opened without further order of the Court. The envelope in which such confidential material is filed should be marked "Confidential: subject to the terms of the Protective Order dated June 19, 2008" prominently on the front and back. One copy of any confidential material filed with the Court shall be furnished to opposing counsel.

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7. The transcripts of deposition or trial testimony given by any person in this matter relating to confidential information produced by or on behalf of CMI Terex will not be copied or reproduced in any manner nor exhibited or made available to any person except those described in paragraph 3.

8. If opposing counsel shall object to the designation of any document, blueprint, or other material or information as confidential, they shall notify CMI Terex's counsel. If the dispute cannot be resolved by agreement, opposing counsel may apply to the Court for a ruling that the documents, blueprints, or other material or information shall not be designated

confidential. Until the Court enters an order changing the confidential designation, the documents, blueprints, or other material or information shall be deemed confidential and shall remain subject to the restrictions on disclosure provided herein.

9. Upon the conclusion of the present action and any appeal, opposing counsel shall return all confidential documents, blueprints, or other materials or information, including summaries and any copies thereof (including, but not limited to, all copies provided to expert witnesses and non-testifying consultants) to CMI Terex.

Jerome B. Simandle
The Honorable Judge Jerome B. Simandle

APPROVED BY:

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